



SENT TO COUNCIL: \_\_\_\_\_

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT: MAP IDENTIFYING AREAS OF  
UNDUE CONCENTRATION AS  
RELATED TO THE ISSUANCE OF  
OFF-SALE ALCOHOL LICENSES**

**DATE:** August 31, 2006

---

Approved

Date

---

## INFORMATION

In January 1995, State Assembly Bill 2897 (hereinafter referred to as the Caldera Bill) went into effect, prohibiting the issuance of alcoholic beverage licenses in areas of undue concentration unless the local government makes a determination of public convenience or necessity.

On December 6, 2005, the City Council adopted ordinance number 27564, which made various modifications to Title 6 and Title 20 of the San Jose Municipal Code related to the City's consideration of requests for off-sale alcohol licenses in areas of undue concentration.

This Information Memo is being provided to Council to provide the collected data necessary for identification of areas of undue concentration. Areas of undue concentration are those where either of the following conditions exists:

- (1) An applicant's premises are located in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency; or,
- (2) The ratio of off-sale licenses to population in the census tract in which an applicant's premises are located exceeds the ratio of off-sale licenses to population in the county in which an applicant's premises are located.

The Caldera Bill further prescribes the methodology for identification of areas of undue concentration by defining the following terms:

- Reported crimes: the most recent yearly compilation by the local law enforcement agency of certain reported offenses.
- Population in the county: the annual population estimates for California counties published by the Demographic Research Unit of the State Department of Finance (DOF).

- Number of licenses in the county: the number of licenses as determined by the most recent yearly count published by the State Department of Alcoholic Beverage Control (ABC).

## **ANALYSIS**

### *Data Collection/Mapping*

Given recent adoption of ordinance number 27564 by the City Council, and in accordance with provisions of the Caldera Bill, the Planning Services Division has collected the data necessary for identification of areas of undue concentration. These areas are shown on the attached map, "Areas of Undue Concentration as Related to the Issuance of Off-Sale Alcohol Licenses". The following data were used in the preparation of this map:

- Records of approximately 500 active off-sale licenses in the City of San Jose, as of July 14, 2006, obtained from the State ABC. These data were analyzed in a Geographic Information Systems (GIS) database to determine their precise location and associated census tract. Using this database, staff computed the license concentration using the count of licenses in each census tract and census tract population data from the U.S. Census Bureau. The results of this analysis are presented as a map, identifying a total of 85 census tracts that were "overconcentrated" (i.e., blue-colored areas on the enclosed map);
- Statistics on reported crime by police beat during the June 1, 2005 to May 31, 2006 time period, as tallied by the San Jose Police Department's Crime Analysis Unit. By comparison of these data with a citywide crime average, a total of 18 police beats were identified as "high crime" areas (i.e., red-colored areas on the enclosed map);
- Latest annual population estimates for California counties, as of January 1, 2006, released by the State DOF on May 1, 2006; and,
- Latest count of off-sale licenses in Santa Clara County, as of June 30, 2006, as indicated in an annual license count report from the State ABC.

There is some degree of overlap between "overconcentrated" census tracts and "high crime" police beats (i.e., areas where both aforementioned Caldera Bill conditions are met). More importantly, the combination of areas that meet either of the criteria for undue concentration covers more than half of the City. Thus, future applications for new off-sale alcohol licenses in San Jose are highly likely to be within an area of undue concentration, and therefore subject to a determination of public convenience or necessity.

As far as the frequency and timing of future updates to the enclosed map, please note that crime, population, and county-level license count data are compiled on an annual basis, per Caldera Bill methodology, and that State DOF population data are released in May of each year. As such, a fiscal year update cycle would yield the most current information.

*Inspection Program*

The Code Enforcement Division has implemented the billing and inspection components of the Off-Sale Alcohol Inspection Program. The program provides pro-active, comprehensive inspections for compliance with the Municipal Code. To date, the program has generated \$137,186.00 in fee revenue and staff has inspected over forty licensed off-sale establishments. Staff continues to work closely with the ABC and San Jose Police Department to prioritize inspections of establishments that are causing a negative community impact.

**PUBLIC OUTREACH/INTEREST**

The enclosed map is posted for public availability on the Planning Divisions' website (at [http://www.sanjoseca.gov/planning/data/docs/ABC\\_Undue\\_Concentration.pdf](http://www.sanjoseca.gov/planning/data/docs/ABC_Undue_Concentration.pdf)).

**COORDINATION**

The preparation of this memo was coordinated with the Police Department and City Attorney's Office.

JOSEPH HORWEDEL, ACTING DIRECTOR  
Planning, Building and Code Enforcement